

Amendment Number 2
to
Contract Number DIR-SDD-252
between
State of Texas, acting by and through the Department of Information Resources
and
Xiotech Corporation

This Amendment Number 2 to Contract Number DIR-SDD-252 (Contract) is between the Department of Information Resources ("DIR") and Xiotech Corporation ("Vendor"). DIR and Vendor agree to modify the terms and conditions of the Contract as follows:

1. **Appendix A, Section 9, Vendor Responsibilities, B. Vendor Certifications** is hereby restated in its entirety as follows:

Vendor certifies that it and its designated Order Fulfillers: (i) have not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract, (ii) are not currently delinquent in the payment of any franchise tax owed the State of Texas and are not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate, (iii) neither they, nor anyone acting for them, have violated the antitrust laws of the United States or the State of Texas, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage, (iv) have not received payment from DIR or any of its employees for participating in the preparation of the Contract, (v) under Section 2155.004, Texas Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate, (vi) to the best of their knowledge and belief, there are no suits or proceedings pending or threatened against or affecting them, which if determined adversely to them will have a material adverse effect on the ability to fulfill their obligations under the Contract, (vii) are not suspended or debarred from doing business with the federal government as listed in the *Excluded Parties List System (EPLS)* maintained by the General Services Administration, and (viii) as of the effective date of the Contract, are not listed in the prohibited vendors list authorized by Executive Order #13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control. In addition, Vendor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the Contract.

2. **Appendix A, Section 9, Vendor Responsibilities, K. Overcharges** is hereby added as follows:

Vendor hereby assigns to DIR any and all of its claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. and Comm. Code Section 15.01, et seq.

3. **Appendix A, Section 9, Vendor Responsibilities, L. Prohibited Conduct** is hereby added as follows:

Vendor represents and warrants that, to the best of its knowledge as of the date of this certification, neither Vendor nor any Order Fulfiller, subcontractor, firm, corporation, partnership, or institution represented by Vendor, nor anyone acting for such Order Fulfiller, subcontractor, firm, corporation or institution has: (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated its response to the Request for Offer directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

4. **Appendix B, Historically Underutilized Businesses Subcontracting Plan** is hereby replaced in its entirety as attached to this Amendment Number 2.
5. All other terms and conditions of the Contract, not specifically modified herein, shall remain in full force and effect. In the event of conflict among the provisions, the order of precedence shall be Amendment Number 2, Amendment Number 1, and then the Contract.

IN WITNESS WHEREOF, the parties hereby execute this Amendment Number 2 to be effective as of the date of the last party to sign.

Xiotech Corporation

**The State of Texas, acting by and through
the Department of Information Resources**

By: Signature on file_____

By: Signature on file_____

Name: Todd Gravel_____

Name: Cindy Reed_____

Title: Corporate Counsel_____

Title: Interim Director of Service Delivery_____

Date: 04/23/07_____

Date: 05/02/07_____

Legal: 04/30/07_____